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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BELIVEAU, SCOTT E

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 09/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/729,811

Applicant(s)

CANDELORE ET AL.

Examiner

Scott Beliveau

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-27 and 29-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-27 and 29-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 25 August 2006 have been fully considered but they are not persuasive.

With respect to applicant's traversal with respect to the previously presented OFFICIAL NOTICE statements, applicant's remarks are noted, however they have not been seasonably presented. As set forth in MPEP 2144.03, if applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. Accordingly, the particular traversal is considered moot as it was not seasonably presented and has been taken to be admitted prior art. However, assuming arguendo, that the challenge was in fact seasonable and adequate. The examiner notes that evidence as to the particular reduction in a value based upon a 'percentage' or 'ratio' is well known in the broadcasting art as further evidenced by the Barrett et al. reference (US Pat No. 6,005,597) of record.

Regarding applicant's amendments and remarks regarding the combination of APA in view of Bedard failing to provide a proper prima facie case of obviousness against the rejection of claims 37-40, 43-46, and 48, the examiner respectfully disagrees. APA provides evidence as to the particular existence of a 'predetermined value' corresponding to a particular maximum value of a count. The Bedard reference teaches the particular decrement of counts corresponding to the watching of programming. The particular decrementing of

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counts in Bedard et al. occurs at any point in time in which a new entry is being sought to be added to the list. This implicitly would include the decrementing being both in response to and not in response to a 'count value of a first item of the one or more items reaching a predetermined value'. The claim does not require that the particular adjustment occur 'only' or is triggered solely in direct response to reaching a predetermined count value.

Accordingly, the combination is still believed proper.

Regarding applicant's arguments pursuant to claims 4 and 42, the examiner is unclear with respect to what the particular distinction between the Graves 'synaptic weights' and the claimed weighting factor is being argued by applicants. The claim appears to require for the particular usage of a "weighting factor assigned to the item" in order to rank favorites. As argued Graves utilizes a 'synaptic weighting' factor in order to determine favorites. It is unclear as to why a modification to Bedard to further utilize a 'weighing factor' as set forth below in order to improve the strictly linear rankings of favorites does not meet the broadly claimed 'weighting factor assigned to each item'.

Regarding the rejection of claim 47, no further arguments other than those relying upon claim dependency have been presented.

With respect to applicant's arguments regarding claim 34 being rejected over the combination of APA, in view of Saib, and Bedard, applicants argue that the combination particular fails to prevent rollover of a count value by automatically adjusting the count value of each of the plurality of items relative to each other once one of the plurality of items reaches a maximum value so that an order to the plurality of items according to count value remains intact, the examiner respectfully disagrees. As previously discussed, the

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combination of APA and Bedard serves to 'automatically adjust the count value of each of the plurality of items relative to each other once one of the plurality of items reaches a maximum value' in so far as the Bedard continues to relatively adjust the counts of items both before and after the reaching of a maximum value.

With respect to applicants arguments regarding the rejection of claims 25 and 49, appellants argue that the particular rollover is not being prevented though adjustment of the count value upon or once the count value reaching a predetermined value, the examiner respectfully disagrees. As previously discussed, the combined references provide for the particular decrementing to occur at any point or 'count value' including the maximum or predetermined value. Accordingly, the applicant's arguments are not deemed persuasive.

Concerning claims 20-22, 27, 29-31, 33, 36, 46, 48, 50-53, and 55-57, no further arguments other than those relying upon claim dependency have been presented.

Accordingly, as previously discussed, the grounds of rejection are still considered proper.

Regarding the rejection of claims 23, 26, 32, 35, 47, and 54, no further arguments other than those relying upon claim dependency have been presented. Accordingly, as previously discussed, the grounds of rejection are still considered proper.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 37-40, 43-46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (APA) in view of Bedard (US Pat No. 5,801,747).

In consideration of claim 37, APA discloses that current "TV broadcast systems" provide EPG functionality and comprise limited resources to store and maintain viewer statistics such that subsequent to a particular statistic associated with measuring how long or how many times a viewer accesses the same channel or program reaching a maximum value associated with a count a rollover of counts will occur subsequent to being incremented again (IA: Page 2, Lines 9-15). Accordingly, APA provides evidence as to a "method for a broadcast system" which comprises a "rollover being a condition where a count value of [an item] . . . reaches a predetermined value" (ex. maximum value) "before being reset"; but does not disclose that such systems necessarily maintain "relative statistics on one or more items in association with preventing rollover of a count value or the particular creation of a list of favorites.

In an analogous art pertaining to television broadcast systems and the particular creation of lists of favorites, the Bedard reference discloses a set-top box which implements a method (Figure 3) for "detecting a tuning event" [300] (Col 3, Lines 63 – Col 4, Line 14), "maintaining relative statistics on one or more items related to the tuning event . . . including . . . adjustment relative statistics of each item of the one or more items in response to a count value of a first item of the one or more items reaching [a] predetermined value" (ex. the adjustment may occur for any non-zero count value) wherein the "count value [is] a relative statistic of the one or more items" such that the particular values are decremented by the same values (Col 4, Lines 49-65; Col 5, Line 34 – Col 7, Line 6), and "automatically

[creating] a list of favorites based on the relative statistics” (Col 7, Lines 21-27).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references using the teachings of Bedard so as to “maintain relative statistics on one or more items related to the tuning event, the maintaining of the relative statistics includes preventing rollover of count values by adjusting the relative statistics of each item of the one or more items in response to a count value of a first item of the one or more items reaching a predetermined value, the rollover being a condition where a count value of a first item of the one or more items, reaches a predetermined value before being reset when the count value is next incremented” for the purpose of advantageously providing a means to manage limited memory resources associated with automatically monitoring viewing behavior and using such information in order to customize the display of an electronic program guide (Bedard: Col 1, Line 51 – Col 2, Line 13).

For example, taken in combination, the system in association with attempting to add a new entry reduces viewing counts associated with ‘one or more’ previous entries of viewing, thereby maintaining relative statistics between these items. The particular act of decrementing counts occurs whether the particular count value reaches its maximum value or is at value less than its maximum value and serves to ‘prevent’ or forestall or take advanced measures associated with “preventing rollover of a count value” by virtue of slowing the progression of counts reaching a theoretical maximum value.

Claim 38 is rejected wherein “detecting a tuning event includes detecting a selected channel” (Bedard: Col 3, Line 63 – Col 4, Line 14).

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Claim 39 is rejected wherein the “list of favorites comprises a schedule listing consecutive weekly programs separated by time” in the form of EPG listings (Bedard: Col 7, Lines 19-27).

Claim 40 is rejected wherein the “count value identifies an amount of time that a channel was viewed over a predetermined time interval” (Bedard: Col 4, Lines 7-13 and 38-54).

Claim 43 is rejected wherein “preventing rollover is conducted by adjusting the relative statistics of each item of the one or more items through subtraction of a predetermined value from each count value associated with each item of the one or more items” (Bedard: Col 6, Lines 59 – Col 6, Line 22).

Claim 44 is rejected wherein the wherein the “preventing of rollover is conducted by adjusting the relative statistics of each item of the one or more items through subtraction of a predetermined percentage of counts from each count value associated with each item of the one or more items” (Col 5, Line 59 – Col 6, Line 46). For example, the claim does not require that the particular “predetermined percentage” is necessarily the same ‘predetermined percentage’ for each of the items or what the particular ‘predetermined percentage’ is a percentage in relationship to. Turning to Figure 2, the particular removal of 1 count from ‘ESPN’ and 1 count ‘SC’ serves to remove a ‘predetermined percentage’ of 5% and 2% of counts respectively. Alternatively, the system operates to remove a ‘predetermined percentage’ or 100% of the counts associated with the item to be added to the list from each item previously in the list.

In consideration of claim 45, as aforementioned, the Bedard reference explicitly teaches the specific subtraction of a value from a count in order to reduce the number of counts

which serves to prevent rollover. For example, in Figure 2, the system operates to reduce the count for 'ESPN' from 20 to 19 or by 5%. As is commonly known in the art, this is equivalent to multiplying the count value by 0.95. Applicant's admission of provides evidence of the fact that multiplying by a ratio to take counts instead of a count down is notoriously well known in the art. Accordingly, it would have been obvious to one having ordinary skill in the art so as to modify Bedard such that the "preventing of rollover is conducted by adjusting the relative statistics of each item of the one or more items through multiplication of each count value associated with each item by a percentage value less than one and greater than zero" for the purpose of substituting mathematically equivalent operations as method for reducing a value.

Claim 46 is rejected wherein the method further comprises "auto-tuning the list of favorites without user interaction" (Bedard: Col 7, Lines 39-55).

Claim 48 is rejected wherein the "one or more items include at least two of a program . . . and a theme of the program" (Bedard: Figure 2; Col 4, Lines 49-65).

4. Claims 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (APA), in view of Bedard (US Pat No. 5,801,747), and in further view of Graves et al. (US Pat No. 5,410,344).

In consideration of claims 41 and 42, Bedard is silent with respect to the particular process of "creating the list of favorites" and ranking them as claimed. In an analogous art pertaining to television broadcast system, the Graves et al. reference discloses a method for ranking preferred programming. The method involves "multiplying the relative statistics for each item of the one or more items by a weighting factor assigned to the item" wherein "the

multiplying of the relative statistics includes multiplying a count value for each item of the one or more items by the weighting factor associated with each items” and “(ii) ranking all of the items based on the highest weighted values” (Col 6, Lines 32-52; Col 8, Lines 5-51). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Bedard so as to perform the list creation method of Graves for the purpose of providing a means so as to select programming based upon user preferences which further utilizes an adaptive or neural system in order to improve rankings (Graves et al.: Col 1, Line 62 – Col 2, Line 20)

5. Claim 47 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant’s admitted prior art (APA), in view of Bedard (US Pat No. 5,801,747), and in view of Rothmuller (US Pat No. 5,635,989).

With respect to claim 47, the Bedard reference is silent with respect to “providing an alert if an item in the list of favorites is about to be shown or is being shown”. In an analogous art pertaining to television broadcast systems, the Rothmuller reference discloses a method for “providing an alert if an item in the list of favorites is about to be shown or is being shown” (Col 7, Lines 30-45). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Bedard to provide an “alert if an item in the list of favorites is about to be shown or is being shown” for the purpose of providing the user with the user with the ability to readily identify when a desired program will be broadcast (Rothmuller: Col 1, Lines 56-60).

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6. Claims 20-22, 25, 27, 29-31, 33, 34, 36, 46, 48-53, and 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (APA), in view of Saib et al. (US Pat No. 5,973,682), and in further view of Bedard (US Pat No. 5,801,747).

In consideration of claim 25, APA discloses that current TV broadcast systems provide EPG functionality and comprise limited resources to store and maintain viewer statistics such that subsequent to a particular statistic associated with measuring how long or how many times a viewer accesses the same channel or program reaching a maximum value associated with a count a rollover of counts will occur subsequent to being incremented again (IA: Page 2, Lines 9-15). Accordingly, APA provides evidence as to broadcast television systems which will suffer from a 'rollover of a count value . . . upon the count value reaching a predetermined value" (ex. maximum value) and "being reset when the count value is next incremented"; but does not disclose that such systems necessarily maintain "relative statistics on one or more items by preventing rollover of a count value". APA is further silent with respect to the particular composition/architecture of the particular TV broadcast system such that it necessarily utilizes a "machine-readable medium" executed via a processor.

In an analogous art pertaining to television broadcast systems, Figures 1 and 2 illustrate an "article of manufacture" that comprises a "machine-readable medium that provides instructions" [34] "that upon execution by a processor" [29] "cause the processor to perform operations" associated with the implementation of user functionality to the system (Col 4, Lines 31-56). The particularly illustrated "TV broadcast system" further supports EPG functionality as well as favorites (Figure 3). Accordingly, it would have been

obvious to one having ordinary skill in the art at the time the invention was made so as to modify the “TV broadcast system” of APA so as to utilize the architecture and EPG teachings of Saib et al. for the purpose of particularly providing a TV broadcast system which provides a user friendly interface with distinguishing features of interactive portions of the EPG display (Saib et al.: Col 1, Lines 34-51). Taken in combination, the combined teachings are considered to provide a “TV broadcast system” which supports an EPG and favorites functionality and comprises limited resources to store and maintain statistics such that particular statistics will ‘rollover’ at a maximum value; however, the combined references are silent with respect to techniques to ‘prevent’ the rollover from occurring.

In an analogous art pertaining to television broadcast systems and the particular creation of lists of favorites, the Bedard reference discloses a set-top box that “detects a tuning event where a channel is continuously tuned in for over a selected period of time” (Col 3, Lines 63 – Col 4, Line 14), “maintains relative statistics on one or more items related to the tuning event . . . through adjustment of the count value” (Figure 3; Col 4, Lines 49-65; Col 5, Line 34 – Col 7, Line 6), and “creates automatically a list of favorites based on the maintained relative statistics” (Col 7, Lines 21-27). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references using the teachings of Bedard so as to “maintain relative statistics on one or more items related to the tuning event by preventing rollover of a count value through adjustment of the count value upon the count value reaching a predetermined value and being reset when the count value is next incremented” for the purpose of advantageously providing a means to manage limited memory resources associated with automatically monitoring

viewing behavior and using such information in order to customize the display of an electronic program guide (Bedard: Col 1, Line 51 – Col 2, Line 13).

Claim 34 is rejected in light of the aforementioned combination. As aforementioned, APA discloses a “broadcast system” with limited resources wherein statistical counts are limited to a fixed size such that they ‘rollover’ after being incremented past a predetermined value. Figure 1 of Saib et al. illustrates a “broadcast system” comprising a “display” [4] and a “receiver coupled to the display” [2] which further supports favorites and EPG functionality. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the “TV broadcast system” of APA to utilize the architecture and EPG teachings of Saib et al. for the purpose of particularly providing a TV broadcast system which provides a user friendly interface with distinguishing features of interactive portions of the EPG display (Saib et al.: Col 1, Lines 34-51).

Bedard discloses a “receiver” or set-top box that “stores relative statistics . . . detects a tuning event . . . maintains the relative statistics related to a plurality of items of the tuning event . . . automatically adjusts the count value of each of the plurality of items relative to each other once one of the plurality of items reaches a maximum value” or any other particular count value “so that an order of the plurality of items according to the count value remains intact, and . . . creates automatically a list of favorites based on the relative statistics in the memory” (Figure 3; Col 4, Lines 49-65; Col 5, Line 34 – Col 7, Line 6; Col 7, Lines 19-26). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references so as to comprise a “receiver coupled to the display and to store relative statistics, to detect a tuning event, to

maintain the relative statistics related to a plurality of items of the tuning event, to prevent rollover of a count value by automatically adjusting the count value of each of the plurality items relative to each other once one of the plurality of items reaches a maximum value so that an order of the plurality of items according to count value remains intact, and to create automatically a list of favorites based on the relative statistics in the memory” for the purpose of advantageously providing a means to manage limited memory resources associated with automatically monitoring viewing behavior and using such information in order to customize the display of an electronic program guide (Bedard: Col 1, Line 51 – Col 2, Line 13).

Claim 49 is rejected in light of the aforementioned combination of references. As aforementioned, APA provides evidence of an “apparatus” of TV broadcast system with limited resources wherein statistical counts are limited to a fixed size such that “rollover of the count value . . . [occurs] upon reaching a predetermined value prior to being reset”. Figure 2 of Saib et al. illustrates an “apparatus” [2] comprising a “front end” [20] “including a tuner” [21], a “memory” (ex. [38]), and a “processor” [29] “in communication with the front-end and the memory” (Col 4, Lines 31-56) which supports user preferences and EPG functionality. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the “apparatus” of APA so as to utilize the architecture and EPG teachings of Saib et al. for the purpose of particularly providing a TV broadcast system which provides a user friendly interface with distinguishing features of interactive portions of the EPG display (Saib et al.: Col 1, Lines 34-51).

Bedard discloses an “apparatus” or set-top box necessarily comprising a memory in order to “stores relative statistics” [200] and a “processor” necessary to control the operations of

the set-top box that “(i) detect[s] a tuning event, (ii) maintain[s] relative statistics on an item related to the tuning event, the relative statistics include a count value identifying either a number of times or a time interval that the item has been tuned to and received” (Col 4, Lines 27-65), “(iii) . . . at least adjust[s] the count value . . .” and “(iv) creates automatically a list of favorites based on the relative statistics in the memory” (Figure 3; Col 4, Lines 49-65; Col 5, Line 34 – Col 7, Line 6; Col 7, Lines 19-26). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references so as to comprise a “processor in communication with the front-end and the memory, the processor to (i) detect a tuning event, (ii) maintain relative statistics on an item related to the tuning event, the relative statistics include a count value identifying either a number of times or a time interval that the item has been tuned to and received, (iii) prevent rollover of the count value by at least adjusting the count value upon reaching a predetermined value prior to being reset, and (iv) create automatically a list of favorites based on the relative statistics in the memory” for the purpose of advantageously providing a means to manage limited memory resources associated with automatically monitoring viewing behavior and using such information in order to customize the display of an electronic program guide (Bedard: Col 1, Line 51 – Col 2, Line 13).

Claims 20, 29, and 50 are rejected wherein the combined references “detect the tuning event by detecting a selected channel” (Bedard: Col 3, Line 63 – Col 4, Line 14).

Claims 21 and 30 are rejected wherein the combined references “create automatically the list of favorites to comprise a schedule listing consecutive weekly programs separated by time” in the form of EPG listings (Bedard: Col 7, Lines 19-27).

Claims 22, 31, and 46 are rejected wherein the combined references “auto-tune the list of favorites without user interaction” (Bedard: Col 7, Lines 39-55).

Claims 24 and 33 are rejected in light of Bedard wherein the system “creates automatically the list of favorites using a changing time scale as the list matures” (Col 6, Lines 28-46) such that in order for a particular entry to become a favorite early on it need not be viewed for an extensive period of time; however, as the list ‘matures’ or the viewer watches more programming a particular entry needs to be watched for a longer time scale before being deemed a favorite.

Claims 27, 36, 48, and 51 are rejected wherein the combined references “maintain relative statistics on one or more items that include a channel item” (Bedard: Figure 2; Col 4, Lines 49-65)

Claim 52 is rejected in light of the combined references. The Saib et al. reference discloses the existence of a “Favorite Key of a remote controller” (Figure 3). The Bedard reference discloses that the “list of favorites is accessible by depressing a . . . key of a remote controller” (Bedard: Figure 5; Col 7, Lines 39-64). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the combined references such that the “list of favorites is accessible by depressing a Favorite key of a remote controller” for the purpose of providing a logical correspondence between remote controller function labels and their corresponding functionality.

Claim 53 is rejected wherein the “count value identifies an amount of time that a channel was viewed over a predetermined time interval” (Bedard: Col 4, Lines 7-13 and 38-54).

Claim 55 is rejected wherein the “processor prevents rollover by adjusting the relative statistics on the item through subtraction of a predetermined value from the count value” (Bedard: Col 6, Lines 59 – Col 6, Line 22).

Claim 56 is rejected wherein the wherein the “processor prevents rollover by adjusting the relative statistics on the item through subtraction of a predetermined percentage of counts from the count value” (Col 5, Line 59 – Col 6, Line 46). For example, the claim does not require that the particular “predetermined percentage” is necessarily the same ‘predetermined percentage’ for each of the items or what the particular ‘predetermined percentage’ is a percentage in relationship to. Turning to Figure 2, the particular removal of 1 count from ‘ESPN’ and 1 count ‘SC’ serves to remove a ‘predetermined percentage’ of 5% and 2% of counts respectively. Alternatively, the system operates to remove a ‘predetermined percentage’ or 100% of the counts associated with the item to be added to the list from each item previously in the list.

In consideration of claim 57, as aforementioned, the Bedard reference explicitly teaches the specific subtraction of a value from a count in order to reduce the number of counts. For example, in Figure 2, the system operates to reduce the count for ‘ESPN’ from 20 to 19 or by 5%. As is commonly known in the art, this is equivalent to multiplying the count value by 0.95. Applicant’s admission of provides evidence of the fact that multiplying by a ratio to take counts instead of a count down is notoriously well known in the art. Accordingly, it would have been obvious to one having ordinary skill in the art so as to modify Bedard such that the “processor [to] prevent rollover by adjusting the relative statistics on the item through multiplication of the count value by a percentage value less than one and greater than

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zero” for the purpose of substituting mathematically equivalent operations as method for reducing a value.

7. Claims 23 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant’s admitted prior art (APA), in view of Saib et al. (US Pat No. 5,973,682), in view of Bedard (US Pat No. 5,801,747), and in further view of Finseth et al. (US Pat No. 6,813,775).

In consideration of claims 23 and 32, the Bedard reference is silent with respect to the system “providing access to the list of favorites from more than one device”. In an analogous art pertaining to television broadcast systems, the Finseth et al. reference discloses a system and method for sharing preferences or “providing access to [a] list of favorites from more than one device” (Figures 7-8; Col 2, Lines 22-33; Col 10, Line 64 – Col 11, Line 20; Col 12, Line 17 – Col 14, Line 62). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Bedard to “provide access to the list of favorites from more than one device” for the purpose of providing a means for users to share their viewing experiences with their friends relatives, or other individuals with similar interests (Finseth et al.: Col 1, Lines 42-54).

8. Claims 26, 35, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant’s admitted prior art (APA), in view of Saib et al. (US Pat No. 5,973,682), in view of Bedard (US Pat No. 5,801,747), and in further view of Rothmuller (US Pat No. 5,635,989).

In consideration of claims 26, 35, and 47, the Bedard reference is silent with respect to “providing an alert if an item in the list of favorites is about to be shown or is being shown”.

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In an analogous art pertaining to television broadcast systems, the Rothmuller reference discloses a method for “providing an alert if an item in the list of favorites is about to be shown or is being shown” (Col 7, Lines 30-45). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Bedard to provide an “alert if an item in the list of favorites is about to be shown or is being shown” for the purpose of providing the user with the user with the ability to readily identify when a desired program will be broadcast (Rothmuller: Col 1, Lines 56-60).

9. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant’s admitted prior art (APA), in view of Saib et al. (US Pat No. 5,973,682), in view of Bedard (US Pat No. 5,801,747), and in further view of Graves et al. (US Pat No. 5,410,344).

In consideration of claim 54, Bedard is silent with respect to the particular process of “creating the list of favorites” and ranking them as claimed. In an analogous art pertaining to television broadcast system, the Graves et al. reference discloses a method for ranking preferred programming. The method involves “(i) multiplying the relative statistics on the item by a weighting factor assigned to the item, (ii) multiplying stored relative statistics on other times by a corresponding weighting factor assigned to each item, and (iii) ranking all of the items based on the highest weighted values” (Col 6, Lines 32-52; Col 8, Lines 5-51). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Bedard so as to perform the list creation method of Graves for the purpose of providing a means to select programming based upon user preferences which further utilizes an adaptive or neural system in order to improve rankings (Graves et al.: Col 1, Line 62 – Col 2, Line 20).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

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SEB

August 31, 2006

Scott Beliveau
Primary Examiner
Art Unit 2623